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9 Attorneys for plaintiffs

6 **IN THE UNITED STATES DISTRICT COURT**

7 **SOUTHERN DISTRICT OF NEW YORK**

8 KINGSLEY CAPITAL MANAGEMENT,  
9 LLC, an Arizona limited liability company,  
10 and BRUCE PAINE KINGSLEY MD IRA  
11 ROLLOVER, a Qualified Individual  
12 Retirement Account,

13 plaintiffs,

14 vs.

15 THE MEMBERS OF THE BOARD OF  
16 DIRECTORS OF THE PARK AVENUE  
17 BANK OF NEW YORK AS OF 2008:  
18 DONALD G. GLASCOFF JR., CHARLES  
19 ANTONUCCI SR., BRUNO DE VINCK,  
20 FREDERICK KELLER, PATRICK R.  
21 MURPHY, ANGELLA MIRIZZI-OLSON,  
MENDEL ZILBERBERG,

defendants.

Case No. 1:12 CV 06260 TPG

**NOTICE OF FILING**

Plaintiffs give notice of filing an Order clarifying Judge Wake's August 15, 2012 Order in which he granted defendants' motion to dismiss. Attached hereto please find Judge Wake's June 14, 2013 Order stating that the motion to dismiss was granted only on the

1 grounds as to personal jurisdiction, and as a result the case was transferred to the Southern  
2 District of New York. The clerk's office has been advised in writing.

3 RESPECTFULLY submitted this 25<sup>th</sup> day of June, 2013.

4 **CONANT LAW FIRM, PLC**

5 By: /s/Paul A Conant  
6 Paul A. Conant  
7 2398 East Camelback Road, Suite 925  
8 Phoenix, Arizona 85016  
9 Attorneys for plaintiffs

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that on June 25, 2012, I electronically transmitted the attached  
12 document to the Clerk's Office using the CM/ECF System for filing and electronic service,  
13 with a copy electronically delivered to Judge Neil Vincent Wake.

14 On this 25<sup>th</sup> day of June, 2013, a copy was served by electronic delivery and/or  
15 mailed through the CM/ECF System, or mailed, to:

16 David A. Weatherwax  
17 Dewain D. Fox  
18 Sherman & Howard LLC  
19 201 East Washington Street, Suite 800  
20 Phoenix, Arizona 85004  
21 Attorneys for defendants Glascoff, De Vinck, Keller, Mirizzi-Olson, Zilberberg

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4

5 /s/ Kelly Naughton  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Kingsley Capital Management, LLC, an  
Arizona limited liability company, and  
Bruce Paine Kingsley MD IRA Rollover, a  
Qualified Individual Retirement Account,

Plaintiffs,

vs.

The Members of the Board of Directors of  
the Park Avenue Bank of New York as of  
2008: Donald G. Glascoff Jr., Charles J  
Antonucci Sr., Bruno De Vinck, Frederick  
Keller, Patrick R. Murphy, Angella Mirizzi-  
Olson, Mendel Zilberberg,

Defendants.

No. CV-12-00418-PHX-NVW

**ORDER**

Before the Court is Plaintiffs' Request to Reopen Case to Issue Clarifying Order (Doc. 27). The Court's Order granting the Defendants' Motion to Dismiss (Doc. 26) did so only on the grounds that the Court lacked personal jurisdiction. As a result, the case was transferred to Southern District of New York. The Order explicitly did not adjudicate the merits of any claim or defense, and concluded only that this Court lacked personal jurisdiction over the claims. To the extent that the order language, in isolation, was unclear in granting the motion to dismiss and thus transferring the case, Plaintiffs' Motion for Clarification will be granted. The Court did not reach the merits of any of Plaintiffs' claims except to conclude that personal jurisdiction did not exist in the District of Arizona.

1 IT IS THEREFORE ORDERED that Plaintiffs' Request to Reopen Case to Issue  
2 Clarifying Order (Doc. 27) is granted.

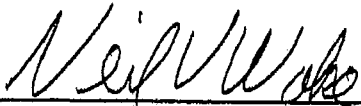
3 IT IS FURTHER ORDERED that the order language of the Court's prior order  
4 (Doc. 26) is clarified to read as follows:

5 IT IS THEREFORE ORDERED that Defendants Donald G. Glascoff, Jr.,  
6 Bruno De Vinck, Frederick Keller, Angella Mirizzi-Olson and Mendel  
7 Zilberberg's Motion to Dismiss the Complaint is granted only to the extent  
8 that this Court finds lack of personal jurisdiction in this District.

9 IT IS FURTHER ORDERED pursuant to 28 U.S.C. § 1631, that the Clerk  
10 shall transfer this case to the Southern District of New York.

11 IT IS FURTHER ORDERED that the Clerk shall transmit a copy of this  
12 order to the Clerk in the Southern District of New York.

13 Dated this 13th day of June, 2013.

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17 Neil V. Wake  
18 United States District Judge  
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